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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,919	04/01/2005	Selim Yalvac	60285A	5284

109 7590 05/06/2010

The Dow Chemical Company
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EXAMINER	
LENIHAN, JEFFREY S	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
05/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/529,919	YALVAC ET AL.	
	Examiner	Art Unit	
	Jeffrey Lenihan	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,10-15,17-19,23 and 24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6, 10-15, 17-19, 23, and 24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/2/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to the amendment filed on 1/27/2010.

2. The objections and rejections not addressed below are deemed withdrawn.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Claim Rejections - 35 USC § 103

4. Claims 1-6, 10-15, 17-19, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sehanobish et al, US5861463 (of record), in view of Lai et al, US5278272 (of record).

The rejection stands per the reasons outlined in the previous Office Action, incorporated herein by reference.

Response to Arguments

5. Applicant's arguments filed 1/27/2010 have been fully considered but they are not persuasive.

6. Regarding the density differential: Applicant's statement that the claimed invention requires that there is difference of at most 0.02 g/cm^3 between the densities of claimed components A(b) and B is inaccurate. The examiner first notes that the independent claims only recite ranges in which the densities of these two components are required to fall; the claims do not recite a limitation regarding the difference between the densities. Furthermore, as recited in independent claim 1, components A(b) and B

may have densities of 0.9130 g/cm^3 and 0.855 g/cm^3, respectively; the claim therefore allows for the density differential to be as high as 0.058 g/cm^3. Similarly, independent claim 17 states that component A(b) may have a density of 0.9130 g/cm^3 and component B has a density less than 0.880 g/cm^3; the density differential therefore is required to be greater than 0.033 g/cm^3. Contrary to applicant's assertion, the claimed invention therefore is not required to be characterized by a density differential that deviates from the prior art teaching of a density differential of at least 0.04 g/cm^3 by a factor of 50% or 75%.

7. Regarding the densities: As discussed in the previous Office Actions, incorporated herein by reference, the difference between the claimed densities of components A(b) and B and the densities of the elastomeric impact modifier and SLEP of Sehanobish are very small-less than 2%. Barring a showing of factual evidence demonstrating unexpected results, the examiner maintains the position that one of ordinary skill would reasonably expect that the properties of the composition rendered obvious by the prior art would not be materially different from those of the claimed invention. As applicant has not provided such evidence, the rejection is maintained.

8. Regarding the Brookfield viscosity, the examiner notes that, as discussed in the previous Office Actions, the only requirements recited by Sehanobish for the SLEP are that it has a polydispersity less than 3.5 and a density at least 0.04 g/cm^3 greater than the density of the elastomeric impact modifier. As the SLEP of Lai is characterized by appropriate polydispersity and density to fulfill these requirements, the examiner maintains the position that it would have been obvious to modify the composition of

Sehanobish by substituting the SLEP of Lai, having the claimed Brookfield viscosity as discussed in the Office Action mailed on 12/19/2008, for component (c) of the composition of US5861463 in order to improve the processability of the composition.

9. Applicant appears to argue that the use of component (B) having the claimed Brookfield viscosity range results in unexpected results; however, the provided examples do not demonstrate the allegedly unexpected results compared to the closest prior art. The samples of Example 6 are the only compositions that meet the requirements of the independent claims. The examiner notes that the inventive examples, comprising components A(a), A(b), and B are compared to a single comparative example which comprises only A(a) and A(b). The difference between the claimed invention and Sehanobish, however, is not the addition of a third polymer component, but rather is the choice of Brookfield viscosity of said third polymer component. Applicant has not provided data from any comparative examples demonstrating that the allegedly unexpected results are not obtained when the Brookfield viscosity of claimed component B is outside the claimed range and therefore has not demonstrated the criticality of the claimed range.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Lenihan whose telephone number is (571)270-5452. The examiner can normally be reached on Monday through Thursday from 7:30-5:00 PM, and on alternate Fridays from 7:30-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/
Primary Examiner, Art Unit 1796

/Jeffrey Lenihan/
Examiner, Art Unit 1796

/JL/